

In support of his claim, appellant submitted a March 1, 2005 medical report from Dr. Frederick M. Florian, a treating Board-certified family practitioner, who reported a June 27,

1990 x-ray interpretation revealed “degenerative proliferative changes about the peripheral aspect of the lateral tibial plateau.” A physical examination performed on August 19, 2004 “showed mild swelling of the knee with decreased range of motion” and an x-ray interpretation revealed “diminished joint space involving the lateral compartment and osteochondral fragment arising from the lateral condyle felt to be consistent with severe osteoarthritis and osteochondritis dessicans.” Dr. Florian diagnosed a possible meniscal tear and premature degenerative arthritis which he opined was caused or aggravated by the June 12, 1990 employment injury when pushing a container at work.

In a letter dated May 16, 2005, the Office informed appellant that the evidence was currently insufficient to support his claim and advised him as to the medical and factual evidence required.

In a June 8, 2005 addendum report, Dr. Florian stated that, while “it is well known that age predisposes to arthritis, it is also quite well know that prior synovectomy, as was done [July] 18, [19]90, leads to premature degenerative changes.” He stated that, since appellant had no problems with his right knee, that the problems with his left knee support a conclusion that the arthritis is due to the left knee employment injury.

By decision dated August 3, 2005, the Office denied appellant’s claim on the grounds that the medical evidence failed to establish how left knee arthritis was causally related to the June 1990 employment injury or otherwise sustained in the performance of duty. The Office noted that there was no evidence that appellant filed a claim for the June 1990 employment injury. The Office further noted that a search had been performed which found six prior claims filed by him, none related to the alleged June 1990 left knee injury. The employing establishment stated that it had no knowledge of a June 1990 left knee injury. The Office found that appellant failed to establish that the claimed condition was causally related to the accepted factors of his federal employment and, therefore, he did not sustain an injury in the performance of duty.

Appellant requested an oral hearing on August 18, 2005 which was held on January 9, 2006.

On October 10, 2005 the Office received additional factual and medical information including a history of treatment at the employing establishment’s health unit, for the period July 27, 1989 to January 27, 1992 and a July 11, 1990 attending physician’s report from Dr. Phillip Nettrour, a treating physician.¹ An entry from the employing establishment health unit dated June 12, 1990, notes that appellant received medical treatment for “acute pain left knee pushing OTR” and that he requested a CA-1 claim form. Dr. Nettrour noted June 12, 1990 as the date of injury and diagnosed left knee degenerative disc disease.

By decision dated March 29, 2006, an Office hearing representative affirmed the denial of appellant’s claim. He found the evidence insufficient to establish that appellant’s left knee condition was aggravated or caused by factors of his employment. The hearing representative

¹ The page contains what appears to be file number 01-11315283 and a file number appellant stated was A03-1154938.

also found that the record was insufficient to establish that appellant filed a claim and sustained an employment-related knee injury on June 12, 1990.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his claim, including the fact that an injury was sustained in the performance of duty as alleged² and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to claimant's diagnosed condition. To be of probative value, the opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵ An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.⁶

² *Joseph W. Kripp*, 55 ECAB ____ (Docket No. 03-1814, issued October 3, 2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). When an employee claims that he sustained an injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury. *See also* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. § 10.5(q) and (ee) (2006) (Occupational disease or Illness and Traumatic injury defined).

³ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁴ *Michael R. Shaffer*, 55 ECAB ____ (Docket No. 04-233, issued March 12, 2004). *See also Solomon Polen*, 51 ECAB 341 (2000).

⁵ *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690 (1994).

⁶ *Phillip L. Barnes*, 55 ECAB ____ (Docket No. 02-1441, issued March 31, 2004); *see also Dennis M. Mascarenas*, *supra* note 3.

ANALYSIS

The Board finds that appellant has failed to submit sufficient medical evidence providing a rationalized opinion which relates his claimed left knee condition to factors of his federal employment. For this reason, he has not discharged his burden of proof to establish his claim.

Appellant submitted a March 1 2005 letter from Dr. Florian who stated that a June 27, 1990 x-ray interpretation revealed degenerative changes in the lateral tibia area and a recent x-ray interpretation showed severe osteoarthritis of the knee. Dr. Florian further stated that an August 19, 2004 physical examination revealed swelling and decreased range of motion in the knee. In a June 8, 2005 addendum, he stated that, while age predisposes one to arthritis it was well known that degenerative changes can be due to a prior synovectomy, as was performed on July 18, 1990. Dr. Florian opined that appellant's left knee arthritis was employment related as appellant had no problems with his right knee. The Board finds that his opinion is of diminished probative value in that his reports do not adequately explain how or why his left osteoarthritis knee condition was caused or aggravated by the factors of his employment.⁷ Appellant attributed his condition to an alleged 1990 employment injury. The Board notes that, while the record contains some evidence of an injury in 1990, there is no evidence that he sustained an injury in the performance of duty or that appellant filed a claim. The Office has not accepted a claim of injury in 1990. Dr. Florian noted that appellant injured himself at work in 1990 with no details provided as to how the injury occurred or the nature of any injury. His reports contained a questionable medical history of injury and insufficient rationale explaining how and why the accepted employment factors caused appellant's claimed left knee condition. They are insufficient to establish that appellant's left knee condition is causally related to factors of his federal employment.

CONCLUSION

The Board finds that appellant has not established that his left knee condition is causally related to factors of his federal employment.

⁷ *Kathryn E. Demarsh*, 56 ECAB ____ (Docket No. 05-269, issued August 18, 2005); *William C. Thomas*, 45 ECAB 591 (1994) (The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 29, 2006 is affirmed.

Issued: October 19, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board